

OFFICIAL GAZETTE



GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/E-9/2135/2001

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 20-6-2001 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Legislative Diploma No. 2070 dated 15-4-1961 (Second Amendment) Bill, 2001

(BILL No. 53 of 2001)

A

BILL

further to amend the Legislative Diploma No. 2070 dated 15-4-1961, in its application to the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Fifty-second Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Legislative Diploma No. 2070 dated 15-4-1961 (Second Amendment) Act, 2001.

(2) It shall come into force at once.

2. *Insertion of new Article.*— After Article 372 of the Legislative Diploma No. 2070 dated

15-4-1961 (hereinafter referred to as the "Code"), the following Article shall be inserted, namely:—

372-A. *Regularisation of unauthorised occupation, wrongful possession, etc.*— (1) Notwithstanding anything contained, elsewhere in this Code, or any other law for the time being in force, or in any instrument, judgement, decree or order of any court or law, any person who is in unauthorised occupation of, or in wrongful possession of, or who has encroached upon, in or over, any land:—

(a) vested in comunidade, or

(b) to the use or occupation of which he is not entitled or has ceased to be entitled, by reason of:—

(i) any of the provisions of this Code, or

(ii) the expiry of the period of lease or termination of lease for breach of any of the conditions annexed to the tenure:

and has constructed, on or before 15-6-2000, a house, for residential purpose on such land, shall, on an application made by him to the Collector of the concerned district, within a period of 90 days from the date on which the Article 372-A, came into effect, in the specified form, accompanied by specified documents, and on payment of specified fees, be entitled for the regularisation of such unauthorised occupation or wrongful possession or encroachment, including of the said residential house, subject however to sub-clause (3) of Article 372-A.

(2) From the date on which Article 372-A came into effect till the expiry of the period of 90 days prescribed under sub-clause (1) above, or till the pendency and disposal of the application, if any, made under sub-clause (1) above, as the case may be:

(a) no proceedings shall be initiated and no order shall be passed, under this Code, against a person who is eligible to apply for and whose case falls, under sub clause (1) above, and

(b) all proceedings already initiated and any order already passed under this code, against a person who is eligible to apply for and whose case falls under sub-clause (1) above, shall remain stayed during such period as prescribed above:

Provided that the period of stay of any proceedings initiated or of any order passed under this Code or the period during which no proceedings can be initiated or no order can be passed under this Code as stated above, shall not extend beyond a period of one year from the date on which Article 372-A came into effect, notwithstanding the fact that the said application made under sub-clause (1) above is not disposed off within the said period of one year.

(3) The form of application, fees payable, the procedure to be followed in processing/deciding the application under sub-clause (1) above, the documents required to be furnished alongwith an application under sub-clause (1) above, the area to be regularised, the fine to be imposed upon, for regularisation, if any, etc., shall be such as may be specified in the rules under the Code.

Statement of Objects and Reasons

The Bill seeks to amend the Goa Legislative Diploma No. 2070 dated 15-4-1961 by inserting a new Article, Article 372-A so as to provide for regularisation of land, occupied or possessed by any person unauthorisedly or wrongfully on or prior to 15-6-2000 and has constructed a residential house thereon, and to protect them from eviction and demolition of their residential houses.

The Government has also assured the Hon'ble High Court in public interest litigation Writ Petition No. 96/2000 and 44/99 that suitable legislation will be enacted for regularisation of encroachment on

Communidade land purely on humanitarian ground and taking into consideration that the encroachers have settled in encroached land for many years.

The date 15-6-2000 has been considered as the cut off date mainly because the District Collector/ Director of Civil Administration have surveyed the entire Comunidade land as on 15-6-2000 and have a complete data in respect of exact cases of encroachment on Comunidade lands and the constructions made thereon.

This Bill seeks to achieve above objects.

Financial Memorandum

No financial implication are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Panaji-Goa.
19th June, 2001.

JOSE PHILIP D'SOUZA
Minister for Revenue

Assembly Hall,
Porvorim, Goa.
19th June, 2001.

R. KOTHANDARAMAN
Secretary (Legislature)

ANNEXURE

Extract of Article 371, 372 and 373 of the Goa Legislative Diploma No. 2070 dt. 15-4-1961.

1. "Article 371: Summary eviction of a person unauthorisedly occupying land vesting in Comunidade.-
(1) If in the opinion of the Director of Civil Administration, any person is unauthorisedly occupying or wrongfully in possession of any land—

(a) vesting in the Comunidade; or

(b) to the use or occupation of which he is not entitled or has ceased to be entitled by reason of—

(i) any of the provisions of this Code, or

(ii) the expiry of the period of lease or termination of lease for breach of any of the conditions annexed to the tenure.

it shall be lawful for the Director of Civil Administration to summarily evict such person in the manner provided in clause (2).

(2) The Director of Civil Administration shall serve a notice on such person requiring him within such time as may appear reasonable after receipt of the said notice to

vacate the land and if such notice is not obeyed, the Director of Civil Administration may remove him from such land.

(3) A person unauthorisedly occupying or wrongfully in possession of land after he has ceased to be entitled to continue the use, occupation or possession by virtue of any of the reasons specified in clause (1), shall also be liable at the discretion of the Director of Civil Administration to pay a penalty not exceeding two times the assessment or rent for the land for the period of such unauthorised use or occupation.

(4) The proceeds on account of the penalty imposed on the encroacher envisaged in clause (3) shall be credited to coffer of the Comunidades.

2. "Article 372: Forfeiture and removal of property left out after summary eviction.— (1) After summary eviction of any person under Article 371, any building or other construction erected on the land or any crop raised on the land shall, if not removed by such person after such written notice as the Director of Civil Administration may deemed reasonable, be liable to forfeiture or to summary removal.

(2) Forfeiture under this Article shall be adjudged by the Director of Civil Administration and any property so forfeited shall be disposed off as the Director of Civil Administration may direct, and the cost of the removal of any property under this Article shall be recoverable as an arrear of land revenue.

(3) For the purpose of this Article and Article 371, the Director of Civil Administration means the Collector of Goa, as defined in the Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969).

(4) The Director of Civil Administration may by order, delegate any of the powers and duties conferred on him under Articles 371 and 372 of the code to any Administrator of comunidades or officer subordinate to him, subject to such condition, if any, as may be specified in the order."

3. Article 373 : The following are bound to denounce the encroachments:

1 — The "procurador" of the Comunidades;

2 — The lessees of the field who will denounce any encroachment not only as regards the field area but also the bunds, drain and other in property inside the fields on adjoining it which is not leased to another person.

\$1 — The "procurador" who does not denounce the encroachment as seen as he has knowledge of it will be dismissed from his functions losing in favour of the Comunidade all the allowance; the encroachment is noticed.

\$2 — The lessee who fail to denounce the encroachment as soon as they notice it will be fined half the value of the property encroached upon.